



# TOWN OF BOW

## Conservation Commission

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**Approved as amended on February 11, 2019.**

### **Bow Conservation Commission**

**Meeting – January 28, 2019**

### **Minutes**

The extra meeting of the Bow Conservation Commission was held on January 28 at 7:00 p.m. Chair Sandy Crystall called the meeting to order.

Members present: Sandy Crystall, Wendy Waskin, Amanda Kallenbach, Michael Hansen, and Bob Ball.

### **Items for Consideration/Discussion**

#### **Review wetland applications submitted to NHDES:**

#### **File 2019-140, G Gardner Contracting LLC for a subdivision of land and File 2019-187, NHDOT for rehabilitation of a culvert.**

Chair Ms. Crystall opened the meeting by mentioning that the two wetland applications arrived in the BCC mailbox after the last Commission meeting on January 14. If the Commission wants to provide input to NHDES, it needs to send an intervention letter within 10 days of the town clerk signoff. It would allow additional time for the Commission members to review the wetland permit applications. There was discussion about the timeframes for review. Motion made by Mr. Hansen to send to the New Hampshire Department of Environmental Services (NHDES) an intervention letter for both permit applications and Ms. Waskin seconded and the motion passed with a unanimous vote.

The Commission discussed the wetland application process and eliminating the need to hold an extra meeting. Motion was made by Ms. Kallenbach and seconded by Mr. Ball to allow the Chair or Vice-Chair to send a letter of intervention to NHDES in similar circumstances in the future, to avoid having to hold an extra meeting for that purpose. The motion passed with a unanimous vote.

The wetland CUP documents for the G Gardner Contracting LLC proposed subdivision had been made available to the Commission members. The wetland application packages for the Gardner subdivision and the NHDOT project will be made available to the Commission members for review so they may be discussed at the Commission meeting in February.

Mr. Ball asked whether the subdivision application was accepted by the Planning Board. Ms. Crystall indicated that it had been accepted for review. There was a large audience of abutters and concerned individuals at the Planning Board meeting, many of whom raised concerns. Among the issues raised was that the wetland boundaries may not be accurate. Due to the winter season, the Planning Board noted that at least two site walks may be required. The thought was to do one site

walk soon (on February 16) to get the lay of the land, and hold another one in April or so when it warms up and the wetlands are visible.

Comments from residents:

Ms. Crystall noted that there were residents in the audience most of whom attended the Planning Board meeting last week. Ms. Crystall noted that at the regular meeting of the BCC earlier in the month, the Commission had provided a list of concerns raised by abutters and the Commission members. Ms. Crystall read the list:

1. Impact to trails/ access to Knox Forest and impacts on aesthetics.
2. Water table levels (impact to them).
3. Traffic impacts.
4. More information needed about corridors and sensitive resources.
5. Stormwater detention in buffers, treatment doesn't remove chlorides and would impact vernal pools nearby.
6. Vernal pool impacts – Wildlife Action Plan identified as sensitive.
7. Potential wetland delineation or making question.
8. Independent review by wetland scientist for sensitive resources and delineation.

Ms. Crystall opened the meeting to hear from residents in the audience.

1. Trish Ramsey, 5 Nesbitt Drive. She stated that she was looking for education asked about the yield plan and who will review it to ensure that the lot size and buildable area are sufficient as the starting point. Ms. Crystall described some of the aspects of the yield plan and wetland CUP requirements and language in the wetland CUP application. Ms. Waskin asked about who reviews and confirms the number of lots shown on the yield plan. Ms. Crystall noted that she will check with Matt Taylor, the Community Development director as to the status of such review. Mr. Ball asked what happens if the wetland delineation is revised after an independent review.
2. Linda Millman, 80 Robinson Rd. She noted that she was gratified to hear about the independent review idea discussed at the last Conservation Commission meeting. Sparse markings on land raised concerns about how the work was done and whether it was done onsite. What areas were done by Lidar? Ms. Crystall described how wetland scientists flag the wetlands and number the flags so the surveyor can identify the wetland boundaries. Ms. Millman noted that there were very few markings on the two-acre lots which have large wet areas. Ms. Crystall mentioned that the easement to access the two lots was designed to have two driveways to service the two lots. Ms. Millman is interested in independent review – a key aspect.
3. Kristen Cook, 7 Smokey Rd. She asked how the property will be marked for the site walk on February 16. Will the wetlands and the lots be marked? Ms. Crystall noted that she didn't know what would be marked. When the ground isn't frozen, often the center line of the road is marked. They may go in and add flags to mark things. Ms. Crystall noted that flags may be eaten by animals (moose have eaten blue flagging elsewhere). The lack of flagging may not be because the flags were not put up. Ms. Cook also raised concerns about the developer. She observed that when the test pitting was done, the contractor drove through vernal pool

setbacks and ripped up trees. Ms. Crystall mentioned that there is an exemption from permitting in state law for test pitting.

4. Dave Obolewicz, 3 Smokey Rd. He stated that he called Tom Sokolowski, the wetland scientist and asked how he conducted the soil survey. Mr. Obolewicz said that Mr. Sokolowski had used a one-inch core auger to check the soils because of the overburden. He did two-thirds of the coring himself. Two types of flagging were used -- pink and black flagging (that squirrels like to use in nests) for wetlands, and blue and white flagging was used to note that Mr. Sokolowski had cored the soil and found no hydric soils.

Mr. Obolewicz mentioned that he had spoken with Bryan Westover in the Planning Dept. about it and Mr. Westover was unfamiliar with wetland delineations being reviewed by other wetland scientists. Ms. Crystall noted that she is aware that some towns routinely have wetland delineations reviewed by an independent wetland scientist.

Mr. Obolewicz also described that in the past he had a wetland delineation done around his house by Peter Schauer when Mr. Obolewicz had his property re-delineated and it was different than the original delineation. He had found an Ortstein layer farther from vernal pool and mottling indicative of changes in water elevation.

5. Ms. Susan Moore, 11 Crockett Dr. asked about whether Bow uses an independent wetland scientist. Ms. Crystall responded that it has not routinely been done, but it has been done.
6. Mr. Obolewicz mentioned residents' concerns about hydrology that were raised at the Planning Board meeting, including concerns about wells going dry and being contaminated. He felt that the answer given by the project engineer deflected the questions. The underlying bedrock is complex, which makes it impossible to predict flow paths from leach fields and recharge rates. He mentioned that the geology shows that there are meltwater channels from the last glacial age that the subdivision will be sitting near. Her asked, where is the water going to go, especially the catchment pond by the C4 and C5 lots? He asked about getting a hydrology study. Ms. Crystall mentioned that in her recollection where there was a proposed development with a proposed public water supply well where review had been conducted by an independent hydrologist.
7. Dave West, 92 Robinson Rd. He asked what authority does the Conservation Commission have to recommend that an independent company do a hydrology study? Ms. Crystall noted that we serve in an advisory role and can only recommend. West mentioned the Mother's Day flood washed out part of Robinson Road, and this land slopes toward Robinson Road. He questions work done by an engineer who is working on behalf of the developer and not in the best interests of the town. Ms. Crystall noted that the stormwater management and treatment are routinely reviewed by an independent (town) engineer. He questioned how well they could withstand a flood like the Mother's Day flood? Ms. Crystall asked about any documentation about the flooding in these areas. Mr. West suggested that maybe the town has such documentation of the washout on Robinson Road. Ms. Crystall asked more specifically where on Robinson Road the flooding had occurred. He stated that it was near the lead line). Ms. Crystall noted that Bow has recently updated its Hazard Mitigation Plan and wondered whether any of these areas are noted as having flooding issues.

8. Bob Varney, Nesbitt Dr. He mentioned a comment that he had made at last month's Conservation Commission meeting. Mr. Varney noted that in his experience stormwater designs don't get built as designed or don't function as designed. For a number of reasons including a lack of follow-up. Mr. Varney also noted that the area is very unusual, as there is a diversity of habitats and slopes, many changes in elevation and different types of forests, which makes it valuable to wildlife. He believes that the statement made about the area being highly rated only due to the proximity to the Town Forest is incorrect. The area needs special attention. The subdivision is unprecedented in town, creating collector roads from side roads. By reducing the number of lots, there will be better protection of resources, less impacts on abutters and improved safety and intensity of use. Children play in the road because they have been residential roads.
9. Ms. Moore asked about the size of buffers on vernal pools and what species were noted. Ms. Crystall mentioned that the ordinance states 50 feet for the buffer and that the project engineer mentioned that NHDES uses 100 feet as its policy. At the last Conservation Commission meeting, Mr. Sokolowski said that he noted spotted salamander and wood frog. Ms. Moore asked if they can be required to do a species identification. Ms. Crystall stated that it is a possibility and that could be the purview of an independent wetland scientist to review the information. Ms. Crystall also noted that she had not yet reviewed the highway methodology supplement evaluation required for the wetland conditional use permit and whether it notes anything more specific about those areas.
10. Mr. Varney noted that when Mr. Sokolowski described his investigation at the previous Conservation Commission meeting, Mr. Sokolowski mentioned that there was a drought during the vernal pool season in the spring of 2018. Mr. Varney mentioned that there may have been a drought warning by NHDES.
11. Ms. Millman asked for clarification about what was approved at the Planning Board meeting, as it was hard to hear. Was there a retention of a wetland scientist approved? Was a hydrologist approved? Ms. Crystall stated that at the meeting the application was accepted for review. The Planning Board heard the comments that were made, there will be a walk soon, and they acknowledged the concern about the boundaries. Once they begin to review the information, that is when the independent wetland scientist will be considered. Ms. Millman was unclear about the statement made by the project engineer about getting multiple quotes. Ms. Crystall explained that it is common when seeking quotes to obtain multiple ones. Ms. Millman urged the Planning Board to do thorough due diligence, and hire a wetland specialist hydrologist to review the survey. When would be the appropriate time to reinforce those requests? Ms. Crystall responded that it would be appropriate at the next Planning Board meeting. Ms. Crystall stated that at site walks no decisions are made, but it is an information gathering time. At the following meeting the Board will discuss what they observed. Ms. Millman asked about the process for the Planning Board's review. Do the members rely on Mr. Taylor and the community development staff for review or do individual members do their portion of the review as well. It is mostly done by staff but because there is varied expertise on the Planning Board, for example, there are several engineers on the Planning Board, they bring their own background and expertise, offer suggestions to do things other ways.

12. Mr. West asked about the timeframe for the Planning Board to review and make a decision, as there was much discussion at the meeting about the clock starting ticking for the 65-day timeframe once the application has been accepted for review. It would be hard to do the site walk and see the wetlands in the timeframe given the time of year. Mr. West felt that at the Planning Board meeting the project engineer seemed reluctant to offer a time extension. It is important for the Planning Board to do the due diligence and take an extension. Ms. Crystall mentioned that Mr. Taylor described that applicants usually agree to extend the timeframes because they want to get an approval. If the applicant doesn't provide the extra time, there may be insufficient information for the Planning Board to make a decision in the 65-day timeframe, and can choose not to approve it. From her experience the applicants typically provide the time extension to the Planning Board for review.

Ms. Waskin noted that Ms. Crystall mentioned there would be two site walks and the second one would be most likely in April, which would be beyond 65 days so that is assuming we would be allowed a time extension.

Mr. Varney asked whether it would be appropriate for the Conservation Commission to make a recommendation to the Planning Board that they entertain a time extension so that given the questions raised about the delineation and potential impacts that the timeframe can be extended. Ms. Millman asked about stopping the clock. Ms. Crystall mentioned that the clock cannot be stopped, but by raising the issues, it has put the Planning Board on notice that the issues need to be addressed.

Ms. Cook asked a question, since this is a special piece of land adjacent to the Town Forest, and the contractor does not even own the land and only has it under agreement to purchase the land if it is approved, has the Conservation Commission given consideration to speaking with Five Rivers Conservation Trust and trying to work with the community to acquire this land for the town?

Ms. Crystall responded that the problem is the timing. We can't wear two different hats and we don't have the money, although we don't know how much they would ask to sell the land. Ms. Crystall noted that the town and Conservation Commission are still paying on the bond for the Hammond property until 2022. If someone came to us with some kind of offer, is that something we would consider? The Commission would have to vote on it and then we'd have to follow up. Until that happens, Ms. Crystall didn't think it's in our place to do that. Ms. Crystall stated that Five Rivers doesn't have money to purchase land. Five Rivers can hold an easement, or people give them land to protect. Ms. Waskin questioned Ms. Crystall about her statement regarding wearing the two hats and what does that mean? Ms. Crystall stated that it is difficult to be in an advisory role to the Planning Board on this project and then go off in another direction to pursue purchase of the land. Ms. Waskin asked if the Commission thought it was a valuable piece of property, why we couldn't pursue it. Ms. Crystall responded that we could, but someone needs to figure out the source of funds.

Ms. Cook mentioned that it is a very special piece of land and she's uncomfortable with how it was acquired. It is assessed at \$18,000 by the town, it sold for \$80,000 in 2003 and it seems that Bow has underestimated the parcel. Ms. Crystall believes that the assessed value of it is based on its current use status. Ms. Crystall described the current use law that allows

landowners to pay less taxes based on it not being developed. Once someone chooses to develop the parcel, then the Land Use Change Tax is paid. In Bow, the Commission receives that money. Ms. Waskin mentioned that the Conservation Commission is looking at doing a Natural Resources Inventory to identify and prioritize land for protection or purchase, which will help us in the future.

Mr. Varney mentioned that the adjacent land scores higher in any land protection program because it enlarges a valuable area.

Mr. West mentioned the town's past purchase of the Upton Town Forest and Nottingcook Town Forest. He asked if this land could be purchased. Ms. Crystall asked who would purchase it. Mr. West responded, "the town." Ms. Crystall stated that it wasn't going to happen since the town is still paying on the Hammond bond.

Ms. Ramsey stated that she relocated here from Florida and doesn't want to see what Florida has ended up with, developed roads going through forests with no buildings.

At 8:20 pm Amanda Kallenbach left.

Mr. Obolewicz asked about the location of site walk scheduled for February 16. Ms. Crystall (and someone else) answered at Nesbitt Drive. He mentioned that a question had been raised about land between the new road and Logging Hill Road. Ms. Crystall responded that the open space land, once designated on the plan, cannot be developed for another purpose.

Karen Obolewicz, 3 Smokey Rd, asked about the contractor and his history. Ms. Crystall noted that once an approval is given, projects may be sold to another company or individual who then takes the approval and does the work, hence the importance of ensuring that all requirements are part of any written approval.

After no additional residents had questions or comments, Ms. Crystall noted that the wetland application is available to the public at the town clerk's office. Residents may send comments directly to NHDES as well.

### **Turee Pond**

Milfoil Treatment- The paperwork for the milfoil treatment is in process. Ms. Crystall had not received an email response from Mr. Stack, the Town Manager, regarding the sharing of costs for the milfoil treatment of Turee Pond.

### **NRI**

Ms. Crystall noted that she was waiting for comments from a reviewer on the RFQ/P.

### **Other**

Mike Kramer from Cub Scout pack 75 (Bow and Dunbarton) is an Advancement Coordinator. He looks for opportunities for scouts to earn badge "conservation - good turn." The group is comprised of about 54 children from K-10 years of age. Typically, they do a one-day cleanup around Earth Day in April. The Commission members discussed their interest in getting young people involved and indicated interest in participating in the event. Mr. Kramer indicated that he would contact the Commission via email.

**Unapproved Minutes 12/17/2018.**

The minutes were reviewed. Ms. Waskin made a motion, duly seconded by Mr. Hansen to approve the December 17, 2018 minutes as amended. The motion passed with a 3:0:1 vote in favor with Mr. Ball abstaining.

Minutes for the January 14, 2019 meeting were briefly reviewed but questions came up and Ms. Crystall mentioned the need to listen to the tape before the Commission reviews them.

*Ms. Waskin made a motion, duly seconded by Mr. Ball to adjourn the meeting and the vote was unanimous. Meeting adjourned at 9:55 PM.*